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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,185	07/15/2003	Hirobumi Toyoda	3022-15	4961

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EXAMINER	
CROSS, ALAN	
ART UNIT	**PAPER NUMBER**
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/619,185	TOYODA, HIROBUMI	
	Examiner	Art Unit	
	Alan Cross	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 11/30/06
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 21-24,26-29,31-33,35-38,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto et al. (US Patent # 6607443) in view of Pfeiffer et al. (US Pub #2003/032481).

Regarding claim 21, 26, 31, 35, 40: Miyamoto teaches a gaming machine for a plurality of players to play a game against each other, comprising: a display for displaying a state of a game; a response image data store for storing individual response image data for each of at least one virtual player, the stored response image data for each virtual player representing different expressions associated with different reactions of that virtual player; and a game controller for selecting the stored response image data for a virtual player representing one of the different expressions associated

with different reactions of that virtual player and corresponding to a circumstance of the game being played, for presentation as an image to a real player of the game being played with the gaming machine, and (iii) controlling the play of the game by the virtual player. Miyamoto lacks (i) determining if a number of real players is insufficient to play the game, (ii), if the number of real players is determined to be insufficient to play the game providing virtual players, and a server for controlling the game play. Pfeiffer teaches determining if there are a sufficient number of players for a game and providing virtual players who interact with the real players (pg. 3, 0047), Pfeiffer also teaches a server for controlling the game (pg. 3, 0044). It would have been obvious to one of ordinary skill in the art to combine the teaching of Miyamoto with the teaching of Pfeiffer to determine if there is enough players and provide virtual players so a player would have a person virtual or real to play against, and where the virtual player would give responses to game play of Miyamoto and to control the game over a server to allow people to play in different geographical locations. A dealer is also considered a player, and the combination would give a player of a game a virtual opponent where they could just play for fun or refine there skills of game play.

Regarding claim 22, 27, 32, 36: Miyamoto teaches the gaming machine according to claim 21, further comprising: a response audio data store for storing response audio data for each of the different expressions associated with the different reactions of the at least one virtual player, the stored response audio data for each expression representing a different voice communication associated with that expression; wherein if the number of real players is determined to be insufficient to play

the game, said game controller also selects the stored response audio data representing the one of the different voice communications that is associated with the one expression represented by the selected response image data, for audible communication to the real player in association with the presentation of the image (col. 5, 1-10, 22-26, col. 6, 22-36).

Regarding claim 23, 28, 33, 37: Miyamoto teaches the gaming machine according to claim 22, further comprising: a game history data store for storing game history data for each of the at least one virtual player, the stored game history data for each virtual player representing the game playing history of that virtual player; and a data change controller for changing the correspondence between an expression for a virtual player and a circumstance of the game being played with the gaming machine based on the stored game playing history data (col. 9, 54-60).

Regarding claim 24, 29, 38: Miyamoto teaches the gaming machine according to claim 21, wherein said display is an individual display associated with only the real player playing the game with said gaming machine (fig. 1, #10). Pfeiffer teaches as well an individual display (fig. 8A).

Claims 25, 30, 34, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto and Pfeiffer as applied to claim 21 above, and further in view of Yamashita et al. (US Patent # 6755743).

Miyamoto and Pfeiffer teach the gaming machine according to claim 21, except further comprising a communications link for transmitting a message from the real player to another real player included in the plurality of players. Yamashita teaches a communications link for transmitting a message from the real player to another real player including in the plurality of players (col. 2, 25-50). It would have been obvious to one of ordinary skill in the art to modify the teaching of Miyamoto and Pfeiffer with the messaging means of Yamashita. This would allow user to have be able to socialize and communicate any topics or strategize with each other.

Response to Arguments

Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nimura (US Patent # 5425827) discloses a game machine that displays a virtual player with video and audio responses to a players input to the game.

Unreal (Game Manual Published DEC 31, 2000) discloses a game system where virtual players are displayed and the virtual players play against real players.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cross whose telephone number is 571-272-5529. The examiner can normally be reached on 8-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC 571-272-5529

2/20/07

ROBERT OLSZEWSKI
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